

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a). PLAINTIFFS

Victoria M. Lynam

DEFENDANTS

New Courtland Senior Centers; and Philadelphia Senior Center

(b) County of Residence of First Listed Plaintiff **Delaware**
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant **Philadelphia**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Stanley B. Cheiken, 261 Old York Road, Suite 503, Jenkintown, PA 19046, (215) 572-8600

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. Section 621, et seq., ADEA

Brief description of cause:
Age discrimination in employment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

JUN 24 2013

DATE 6/20/13

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — LITIGATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 127 Wildwood Avenue, E. Lansdowne, PA 19050

Address of Defendant: 1845 Walnut Street, 12th Floor, Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Philadelphia, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Stanley B. Cheiken, Esquire, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☒ Relief other than monetary damages is sought.

DATE: 6/20/13

[Signature]
Attorney-at-Law

62106
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 6/20/13

[Signature]
Attorney-at-Law

62106
Attorney I.D.#

JUN 24 2013

PBT

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

VICTORIA M. LYNAM

Plaintiff,

v.

NEW COURTLAND SENIOR CENTERS; AND
PHILADELPHIA SENIOR CENTER

Defendants.

CIVIL ACTION

No. 13 3596

JURY TRIAL DEMANDED

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

6/20/13
Date

(215) 572-8600

Telephone

Stanley B. Cheiken

Attorney-at-law

(215) 572-7838

Fax Number


Attorney for Plaintiff

scheiken@earthlink.net

Email Address

JUN 24 2013

PBT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTORIA M. LYNAM,

Plaintiff,

v.

NEW COURTLAND SENIOR CENTERS;
and PHILADELPHIA SENIOR CENTER,
INC.

Defendants.

CIVIL ACTION

No. **13 3596**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Victoria M. Lynam, by and through undersigned counsel, hereby brings this action against defendants New Courtland Senior Centers and Philadelphia Senior Center, Inc., and avers as follows:

PARTIES

1. Plaintiff Victoria M. Lynam ("Lynam") is an adult individual residing at 127 Wildwood Avenue, East Lansdowne, PA 19050.
2. Defendant, New Courtland Senior Centers ("NCSC"), is a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its registered office located at 6970 Germantown Avenue, Philadelphia, PA 19119.
3. Defendant Philadelphia Senior Center, Inc. ("PSC") is a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its registered office located at 1845 Walnut Street, 12th Floor, Philadelphia, PA 19103.

JURISDICTION AND VENUE

4. This action arises under the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.* and the Pennsylvania Human Relations Act, 43 P.S. § 955 *et seq.*

5. Jurisdiction exists pursuant to 28 U.S.C. §§ 1331 and 1367, and 29 U.S.C. § 626(c)(1).

6. Lynam has exhausted the procedural prerequisites to the filing of this action by filing charges of discrimination with the United States Equal Employment Opportunity Commission and the Pennsylvania Human Relations Commission on February 14, 2013, and by requesting a Right to Sue letter on May 20, 2013.

7. Venue lies within this Judicial District pursuant to 28 U.S.C. §1391(b)(2) because the events giving rise to this lawsuit occurred herein.

FACTUAL BACKGROUND

8. Lynam was born on August 21, 1957. As of the date of filing of this lawsuit, she is 55 years old.

9. Lynam began her employment with defendant PSC in 1984.

10. Over the course of 28 years of employment with defendant PSC, Lynam held several executive level positions, including Director, Chief Operating Officer, and Director of Administrative Services.

11. In July 2009, defendant PSC entered into a contractual affiliation agreement with defendant NCSC.

12. From that point on, Lynam's employment was subject to the control and direction of both defendants NCSC and PSC. Accordingly, defendants NCSC and PSC constitute "Joint Employers" for purposes of Lynam's age discrimination claims.

13. At all times, Lynam's job performance was excellent, and in any event, would have met the reasonable expectations of any employer.

14. Nevertheless, in August 2012, Lynam was given a verbal warning and a performance improvement program on the alleged basis that her job performance was not satisfactory.

15. The verbal warning and performance improvement program were adverse employment actions taken against Lynam as a pretext for age discrimination.

16. The performance improvement program was unreasonable, and was known at the time to be unreasonable by defendants NCSC and PSC.

17. Indeed, the alleged deficiencies in Lynam's job performance were not her fault, but rather were known by defendants to be the direct result of understaffing which was beyond Lynam's control.

18. Despite Lynam's best efforts to address the alleged deficiencies identified by defendants, and notwithstanding the fact that her job performance remained excellent, Lynam's employment was terminated on November 28, 2012.

19. Lynam's job duties were reassigned to Julie Nelson, a woman who is more than 10 years younger than Lynam.

COUNT I
AGE DISCRIMINATION IN EMPLOYMENT ACT
29 U.S.C. §621 *et seq.*

20. Lynam incorporates paragraphs 1 through 19 above as if set forth at length herein.

21. Lynam was subjected to unlawful disparate treatment, including the termination of her employment, by defendants NCSC and PCS on the basis of her age.

22. As a direct and proximate result of the age discrimination by defendants, Lynam has sustained a loss of back pay, benefits, and incidental expenses.

23. Lynam will further suffer losses in the nature of front pay and benefits should reinstatement prove impractical.

24. Lynam is entitled to liquidated damages pursuant to 29 U.S.C. §626(b) because of defendants' willful violation of the Age Discrimination in Employment Act.

25. Lynam is further entitled to her costs and attorney's fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, Plaintiff Victoria M. Lynam prays for the following relief:

- A. Back pay and benefits,
- B. Incidental expenses,
- C. Reinstatement or, in the alternative, front pay and benefits,
- D. Liquidated damages,
- E. Costs and attorney's fees, and
- F. Such other relief this Court deems just and equitable.

COUNT II
PENNSYLVANIA HUMAN RELATIONS ACT
43 P.S. §955 *et seq.*

26. The averments contained in paragraphs 1 through 25 above are incorporated by reference as though set forth at length herein.

27. Defendants' conduct as aforesaid violates the Pennsylvania Human Relations Act, 43 P.S. §955 *et seq.*

28. As a direct and proximate result of the age discrimination by defendants, Lynam has sustained a loss of back pay, benefits, and incidental expenses.

29. Lynam will further suffer losses in the nature of front pay and benefits should reinstatement prove impractical.

30. Lynam has suffered emotional distress, embarrassment, humiliation, damage to her reputations and loss of life's pleasures.

WHEREFORE, Plaintiffs pray for the following relief:

- A. Backpay and benefits,
- B. Incidental expenses,
- C. Reinstatement or, in the alternative, front pay and benefits,
- D. Compensatory Damages,
- E. Costs and attorney's fees, and
- F. Such other relief this Court deems just and equitable.

Date: June 20, 2013

/s/ Stanley B. Cheiken, Esquire (SC1060)
STANLEY B. CHEIKEN, ESQUIRE

The Pavilion – Suite 503
261 Old York Road
Jenkintown, PA 19046
(215) 572-8600

Attorney for Plaintiff